

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

UNITED STATES OF AMERICA	)	
	)	
v.	)	No.: 3:15-CR-91
	)	Judge Phillips
JOSEPH E. ARMSTRONG	)	

**ORDER**

The government has filed a Motion to Vacate Prosecution Costs [Doc. 86], in which it asks the Court to vacate the portion of defendant's judgment requiring him to pay the costs of prosecution. As noted in the government's motion and as reflected in the record, defendant Joseph E. Armstrong was convicted of filing a false tax return in violation of 26 U.S.C. § 7206(1) [Doc. 47]. Included in the judgment [Doc. 81], the Court ordered defendant to pay a fine of \$40,000, restitution in the amount of \$99,943 to the Internal Revenue Service, and the costs of prosecution. In support of the motion, the government states that the defendant has paid the fine and restitution in full. However, the government has been unable to determine the costs of prosecution with accuracy, taking into consideration the prosecution of other individuals and the charges on which defendant was acquitted. Accordingly, the government posits that any recovery would be *de minimis* and likely exceeded by the expense of recovering such costs.

The Court interprets the government's motion as in the nature of a motion to remit a fine pursuant to 18 U.S.C. § 3573, which permits the government to petition to "remit all or part of the unpaid portion of the fine" upon a "showing that reasonable efforts to collect

a fine ... are not likely to be effective.” *See United States v. Grannis*, 84 F. App’x 480, 481 (6th Cir. 2003) (citing *United States v. Linker*, 920 F.2d 1, 2 (7th Cir. 1990)). The Court finds that the government’s motion is well taken and in the interest of justice. Therefore, the government’s motion [Doc. 86] it is **GRANTED**. The judgment [Doc. 81] in this case is amended to remove the requirement that the defendant pay the cost of prosecution. In all other respects, the judgment of January 25, 2017 shall remain in effect.

IT IS SO ORDERED.

s/ Thomas W. Phillips  
SENIOR UNITED STATES DISTRICT JUDGE